Amendment and RCE Page 7 of 10

REMARKS

Claims 1-25 remain in the application. Claims 1, 8, 15, 16, and 20-25 have been

amended. Claims 9-14 have been canceled. Applicant respectfully requests reconsideration.

CLAIM REJECTIONS UNDER 35 USC §101

The Office Action rejected claims 1-25 under 35 USC 101 as directed to non-

statutory subject matter because they allegedly disclose a claimed invention that is an abstract

idea as defined in the case In Re Warmerdam, 33 F 3d 1354 (Fed. Cir. 1994). The Warmerdam

case the Federal Circuit affirmed a rejection based on a mathematical algorithm rejection.

Warmerdam, 33 F 3d 1354, 1359. The court said that the only practical embodiment of the

invention claimed in that case involved steps essentially mathematical in nature. Warmerdam,

33 F 3d 1354, 1360. The court in Warmerdam defined an abstract idea as a basic mathematical

construct. Id. This is not the case with the instant invention which is not a mathematical

algorithm or construct but a method and system for sending servers a single configuration

package that configures each of the server computers to execute an application. However,

Applicants have amended claims 1, 8, 15, 16, and 20-25 and cancelled claims 9-14 from further

consideration in this application. Applicants are not conceding in this application that those

claims are not patentable, as the present claim amendments and cancellations are only for

facilitating expeditious prosecution of the allowable subject matter noted by the examiner.

Applicants respectfully reserve the right to pursue these and other claims in one or more

continuations and/or divisional patent applications.

CLAIM REJECTIONS UNDER 35 USC \$103

The Office Action has finally rejected claims 1-25 under 35 USC 103(a) as being

unpatentable over Gupta et al. USPN 6,868,448 in view of Mann et al. USPN 6,922,722.

Applicant respectfully requests reconsideration.

With respect to claim 1, the Office Action contends that Gupta teaches "transferring

to a plurality of servers packages." Office Action at page 2. That statement misconstrues

Applicant's claims which require that a single configuration package is sent to a plurality of

servers.

Gupta teaches away from applicant's claimed invention. Consider the following

discussion:

"Using embodiments of the invention, it is not necessary to pre-configure the local application

server to satisfy a request of the server. The local application server can be configured

dynamically (e.g., as needed) in response to requests. For example, there is no need to install

application code or services on the local application server in anticipation of a request. If the

local application server is not configured to handle a request, the local application server

dynamically configures itself to satisfy the request. A request for information, such as

application code (e.g., an applet) by a client, can be serviced by the local application server with

its existing configuration or a new configuration. Further, by using the local server, it is possible

to access local resources in an efficient way from the local server without using signed applets

(which requires a costly infrastructure and certificates management). Thus, all of the applets are

downloaded from the local server regardless of the application server. Proxies are installed in the

local server and communicate with the application servers. Therefore, it is possible for applets to

share services in the network using the proxies downloaded in the local server.

Further, because the user downloads all of the applets from the local server, the

application server locations and URLs are transparent to the user, and from the user perspective,

all applications are local. Consequently, from the applet perspective, all services are available on

the local server, and the resource locator/handler (discussed below) running in the local server

downloads the proxies for the actual services and makes the locations transparent for the applet.

In addition, since the applet is obtaining all services from the local server, a signed applet

infrastructure is not required."

Considering claim 1, Gupta teaches sending different software to different servers. If

Gupta were sending out the same package to all servers then there would be no need for a server

to request application code from another server. The fact that such an additional step is

necessary means that the first transmission did not satisfy the server's needs. Therefore, the

second transmission must be different from the first. Therefore, claim 1 is patentable over

Gupta.

Claims 2-7 are dependent on claim 1 and are patentable for the foregoing reasons.

Claim 8 has been amended such that the application and configuration data provided

are the same for each server and is hence patentable for the foregoing reasons.

Claims 9-14 have been canceled, thus mooting their rejection.

Serial Number 10/064-011 Docket Number CA920010048US1 Amendment and RCE Page 10 of 10

Claim 15 requires that the package transferred to the plurality of servers is the same

for each of the plurality of servers and is hence patentable for the foregoing reasons.

Claim 16 has been amended to recite that each server can execute the application

solely on the server. The combination of Gupta and Mann does not teach this last limitation.

Rather the combination teaches the use of another server to further provide an application.

Claims 17-19 are dependent on claim 16 and hence are also patentable.

Claim 20 requires that the server configuration data is the same for each of the

plurality of servers. As discussed above that limitation is neither taught nor suggested by Gunta

or Mann

Claims 21-25 are dependent on claim 20 and hence are also patentable.

For the foregoing reasons, Applicant respectfully requests allowance of the pending

claims.

Respectfully submitted.

Michael J Buchenhorner

Michel S. Bucharlun

Reg. No. 33,162

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Michael Buchenhorner, P.A. 8540 S.W. 83 Street Miami, Florida 33143

(305) 273-8007 (voice)

(305) 595-9579 (fax)